

**IN THE
COMMONWEALTH OF VIRGINIA
REAL ESTATE BOARD**

IN RE:

Christina Leanne Lancaster
Va Beach, VA 23456

File Number 2002-03753
License Number 0225050492

FINAL OPINION AND ORDER NO. 2004-0036

On January 23, 2003, the Real Estate Board ("the Board") sent Christina Leanne Lancaster ("Lancaster") a Notice of Informal Fact Finding Conference ("IFF") by certified mail, to the address of record, pursuant to the provisions of the Administrative Process Act §§ 2.2-4019 and 2.2-4021 (formerly § 9-6:14:11) of the 1950 Code of Virginia, as amended, to receive and act upon evidence that Lancaster violated certain regulations of the Board. On January 24, 2003, Lancaster received the certified mail.

On January 26, 2003, the Board notified Lancaster, by certified mail, that the IFF originally scheduled for February 19, 2003, would now convene on May 7, 2003.

On May 7, 2003, the Board convened the IFF in Richmond, Virginia. Lancaster did appear at the IFF. Board Member S. Ronald Owens, presided, and Marjorie Clark, assisted at the IFF.

On June 26, 2003, by certified mail, the Board mailed to Lancaster, at the address of record, a copy of the presiding Board Member's Summary of the IFF ("Summary") and notification of the Board's July 17, 2003 meeting.

On July 16, 2003, a written request was made that the Board defer this matter until its October 2003 meeting. On July 17, 2003, Jamie Lancaster, on

behalf of Christina Lancaster and Carl W. Isbrandtsen, attorney for Lancaster, did appear before the Board, at its regularly scheduled meeting and requested a continuance of this matter until the Board's October 2003 meeting. The Board denied the request that the matter be deferred to its October 2003 meeting, and voted to defer the matter until its next regularly scheduled meeting on September 4, 2003.

On September 4, 2003, the Board met and reviewed the record, which consisted of the investigative file, the transcript and exhibits from the IFF, and the presiding Board Member's Summary. Lancaster did appear at the Board meeting.

The Board adopts the Summary and incorporates it as a part of this Order. The Board finds clear and convincing evidence that Lancaster violated the following sections of its 1999 Regulations and its Statute:

18 VAC 135-20-260(8) (Count 1)
§ 54.1-2132(A)(2)(d), Code of Virginia (Count 3)
18 VAC 135-20-260(9) (Count 4)

In addition, the Board imposes the sanction of a one-year suspension of Lancaster's license number 0225050492 for the violation of 18 VAC 135-20-260(9) (Count 1).

The Board imposes the following monetary penalties:

18 VAC 135-20-260(8) (Count 1)	\$2,500.00
§ 54.1-2132(A)(2)(d) Code of Virginia (Count 3)	\$ 500.00
18 VAC 135-20-260(9) (Count 4)	\$ 500.00

TOTAL	\$3,500.00

As to 18 VAC 135-20-260(9) (Count 2), the Board closed this aspect of the file with a finding of no violation.

ANY MONETARY PENALTY ASSESSED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THIS FINAL ORDER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF THIS FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF YOUR LICENSE (LICENSE NO. 0225050492) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

AS PROVIDED BY RULE 2A:2 OF THE SUPREME COURT OF VIRGINIA, YOU HAVE THIRTY (30) DAYS FROM THE DATE OF SERVICE (I.E. THE DATE YOU ACTUALLY RECEIVED THIS DECISION OR THE DATE THE DECISION WAS MAILED TO YOU, WHICHEVER OCCURRED FIRST) WITHIN WHICH TO APPEAL THIS DECISION BY FILING A NOTICE OF APPEAL, SIGNED BY EITHER YOU OR YOUR COUNSEL, WITH LOUISE FONTAINE WARE, SECRETARY OF THE REAL ESTATE BOARD. IN THE EVENT THAT THE DECISION WAS SERVED ON YOU BY MAIL, THREE (3) DAYS SHALL BE ADDED TO THE THIRTY (30) DAY PERIOD.

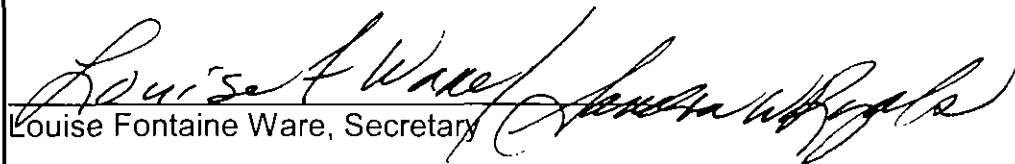
IF A PETITION FOR APPEAL IS FILED WITH THE CLERK OF THE CIRCUIT COURT, AS PROVIDED BY RULE 2A:4 OF THE SUPREME COURT OF VIRGINIA, THEN THE AUTOMATIC SUSPENSION OF YOUR LICENSE FOR FAILURE TO PAY THE TOTAL ASSESSED MONETARY PENALTY WILL BE STAYED PROVIDED THE FOLLOWING INFORMATION IS RECEIVED BY LOUISE FONTAINE WARE, SECRETARY OF THE REAL ESTATE BOARD:

1. A SIGNED COPY OF THE NOTICE OF APPEAL; AND
2. A COPY OF THE SURETY AGREEMENT OR A COPY OF THE RECEIPT FROM THE CLERK OF THE CIRCUIT COURT WHERE THE APPEAL HAS BEEN FILED INDICATING THAT A BOND HAS BEEN POSTED OR CASH PAID INTO THE COURT IN THE AMOUNT OF THE TOTAL MONETARY PENALTY ASSESSED IN THE FINAL ORDER.

SO ORDERED:

Entered this 4th day of September, 2003.

REAL ESTATE BOARD


Louise Fontaine Ware, Secretary

Copy Teste:

Custodian of the Record

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

REAL ESTATE BOARD

**RE: CHRISTINA L. LANCASTER
 LICENSE NUMBER: 0225 050492**

FILE NUMBER: 2002-03753

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on May 7, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Christina L. Lancaster on January 23, 2003. The following individuals participated at the conference: Christina L. Lancaster, Respondent; Carl W. Isbrandtsen, Attorney for the Respondent; Charles Mann, Complainant; Curtis Mann and Sollie Kellihan, Witnesses; Janet Creamer, Investigator; Douglas W. Schroder and David Dorner, Staff Members; and S. Ronald Owens, presiding Board Member and Marjorie Clark, assisting Board Member.

Summation of Facts

1. Charles Mann, a resident of South Carolina, is Alice Mann's son. Alice Mann (Mann) was a resident of Chesapeake, Virginia prior to December, 2000. For the period of approximately June, 1999 through August, 2000, Christina and Jamie Lancaster, Real Estate Salespersons licensed with Long and Foster in Chesapeake, Virginia, represented Mann in the listing and purchase of three separate properties in Chesapeake, Virginia, that resulted in a loss to Mann of approximately \$40,000.00. During these sales transactions, Alice Mann, an 83-year-old resident of Chesapeake, Virginia, suffered from Dementia.

It should be noted that from March of 2000 to December of 2000, Mann experienced periods of confusion and depression. Dr. Khalid Khan, Mann's physician, first noticed depression in March of 2000, and made a "final diagnosis" in August of 2000.

2. On or about July 13, 1999, Alice C. Mann (Mann), as the Seller/Owner, entered into an Exclusive Right to Sell Agreement for Mann's property located at 4006 Mayon Drive in Chesapeake, Virginia, with Long and Foster Real Estate,

with Christina Lancaster (Lancaster), as the Agent representing the Seller/Owner. The listed price for the property was \$70,000.00.

3. On or about July 17, 1999, Mann, as Seller, and Gregory and Andrea Pederson, as Purchasers, entered into a Purchase Contract for property known as 4006 Mayon Drive in Chesapeake, Virginia, through William E. Wood "At the Mall", as the Selling Firm. Betty Clark was the Selling Agent, Long and Foster Real Estate, was the Listing Firm, and Christina Lancaster was the Listing Agent. The purchase price was \$65,000.00.

4. On or about August 31, 1999, the parties settled the transaction. Mann paid a total commission of \$4,850.00, of which Long and Foster received \$2,600.00. Mann received proceeds of \$58,933.58 from the sale of the property.

5. On or about August 24, 1999, Mann, as the Purchaser, and James and Sarah Twine, as the Sellers, entered into a Purchase Contract for property known as 1205 Edgewood Avenue, in Chesapeake, Virginia, through Long and Foster as the Selling Firm, by Christina Lancaster as the Buyer's Agent, and Rose and Womble, as the Listing Agent. The purchase price for this property was to be \$74,000.00.

6. On or about August 31, 1999, the parties settled the transaction. The sellers paid a total commission of \$4,680.00 of which Long and Foster received \$2,590.00 less the \$100.00 earnest money deposit received from Mann. The amount due from Mann as borrower was \$73,748.00.

7. Mann received \$58,933.58 from the sale of 4006 Mayon Drive, and purchased the house on Edgewood for \$73,748.00. Mann had to provide \$14,814.42 in additional funds for the purchase of Edgewood property.

8. On October 12, 1999, Mann listed for sale property located at 1205 Edgewood Drive, with Christina and Jamie Lancaster of Long and Foster, at a price of \$77,000.00. On January 20, 2000, the price was lowered to \$69,000.00.

9. On or about February 5, 2000, Mann, as Seller, and Troy G. Hamilton as Purchaser, entered into a Purchase Contract for property known as 1205 Edgewood Avenue, in Chesapeake, Virginia, through GSH Real Estate as the Selling Firm and Long and Foster Real Estate, as Listing Firm, by Christina Lancaster as Listing Agent representing the seller. The purchase price for this property was to be \$68,000.00.

10. On or about March 15, 2000, the parties settled the transaction. Mann paid a total commission of \$4,260.00, of which Long and Foster received \$2,720.00. Mann received \$59,974.75 from the sale of this property.

11. The sale of this property resulted in a loss to Mann of \$13,774.05.

12. On or about February 9, 2000, Mann, as Purchaser, and Jeffrey and April J. Clodfeller, as Seller, entered into a Purchase Contract for property known as 3001 Mayon Drive, in Chesapeake, Virginia, through Long and Foster as the Selling Firm, by Christina Lancaster as Buyer's Agent, and William E. Wood as the Listing Agent. The purchase price for the property was to be \$65,900.00.

13. On or about March 15, 2000, the parties settled the transaction. The sellers paid a total commission of \$3,954.00, of which Long and Foster received \$1,977.00 less the \$500.00 earnest money deposit received from Mann. The amount due from Mann as borrower was \$69,031.59.

14. In March of 2000, Dr. Khalid A. Khan determined that Mann's mental facilities were not up to par and this decline would have started before March of 2000. Dr. Khan also determined that Mann suffered from dementia, when she was admitted to the hospital in December of 2000, and that this progressive decline would have started years prior to the hospital admittance. According to Dr. Khan, in July of 2000, it was obvious that Mann was confused and not in her right mind and a person in this confused state of mind is "unable to appreciate the consequences of her actions."

15. On or about March 22, 2000, Mann, as Owner, and Long and Foster Real Estate, by Christina and Jamie Lancaster, as Agents representing the seller, entered into an Exclusive Right to Sell Agreement for Mann's property located at 3001 Mayon Drive in Chesapeake, Virginia. The listed price for the property was \$70,000.00. This listing was signed (7) seven days after closing on the same property. The listing for this property constituted the beginning of the fifth transaction conducted by the Lancasters, for Mann, during a period of approximately nine months, since the first listing in July of 1999.

16. On or about June 4, 2000, Mann as Seller, and Steven and Latricia Perkins as Purchasers, entered into a Purchase Contract for property known as 3001 Mayon Drive, in Chesapeake, Virginia through Rose and Womble Realty as Selling Firm, and Long and Foster Real Estate, as Listing Firm, by Christina Lancaster as Listing Agent representing the seller. The purchase price for this property was to be \$66,000.00.

17. On or about August 11, 2000, the parties settled the transaction on the sale of 3001 Mayon Drive. Mann paid a total commission of \$4,120.00, of which Long and Foster received \$2,640.00. Mann received \$56,245.32 from the sale of this property.

18. The sale of this property resulted in a loss to Mann of \$12,786.27.

19. During the time Mann was moving from house to house, Mary Williams, Mann's friend of 50 years, observed that Mann's mind would seem to "go in and out" and Mann could not hold a "straight conversation."

20. Before the first move from 4006 Mayon Avenue, Larry Payne (Payne), Mann's nephew, had conversations with Christina Lancaster and Mann about Mann moving from Mayon to South Carolina to be with her son Charles and her grandchildren, due to Mann's initial state of confusion and dependence upon others. During the move to the Edgewood Property, Payne observed that Mann was beginning to get more confused about things and was in a "bad state of mind." Payne visited Mann on Edgewood Drive, and although she had been there for awhile, most of her belongings were still packed in boxes.

21. Mann's grandson, Curtis Charles Mann, observed that "around the last four years or so that my grandmother (Alice Mann) was steadily starting to lose her memory. Each time I would visit her she seemed a little worse..."

22. Christina Lancaster personally accompanied Mann on her Doctors appointments approximately five or six times and was aware of Mann's depression.

23. On January 23, 2001, Steven K. Whitaker P.C. filed a Bill of Complaint with the Circuit Court of the City of Chesapeake on behalf of Charles Mann, as personal representative to Alice Mann.

24. In the Bill of Complaint, Mann alleged that Jamie and Christina Lancaster's actions constituted actual fraud against Alice Mann. A jury trial was held on December 18, 2001, in Chesapeake Circuit Court.

25. On February 28, 2002, a Final Judgment was entered in favor of Alice Mann in the amount of \$189,000.00. The trial jury found that the Defendants, Jamie and Christina Lancaster, acting together, committed fraud against the Plaintiff, Alice Mann.

26. On February 24, 2000, Mann paid Jamie Lancaster \$5,348.00 for HVAC/Home Repairs to be performed at 3001 Mayon Drive, in Chesapeake, Virginia. Christina Lancaster found another contractor, H & C Contractors, to perform the same repairs at a lower cost.

27. Christina and Jamie Lancaster were to repay Mann's check of \$5,348.00 which was originally tendered for the repairs. The repairs were performed by H & C Contractor in the amount of \$3,485.00.

28. On or about March 15, 2000, the parties settled the transaction. H & C Contracting was paid \$3,600.00 directly from the Borrower's Funds at settlement as payment for Heat and Air Unit Installation.

29. Christina and Jamie Lancaster did not repay Mann the \$5,348.00 paid to Jamie Lancaster on February 24, 2000, until the Board's investigation was initiated.

Conclusion and Recommendation

Count 1: 18 VAC 135-20-260(8) (Effective January 1, 1999)

Christina Lancaster, acting as a real estate licensee, in the listing and purchase of real estate in a 15 month period that resulted in a loss to Mann of approximately \$40,000, failed to exercise ordinary care in violation of 18 VAC 135-20-260(8).

We recommend that a monetary penalty of \$2,500.00 and a one year suspension of Christine Lancaster's license be imposed for a violation of the regulation.

Lancaster did not exercise ordinary care to safeguard the interest of her client Mann, who had special needs based on her elderness. Throughout the time Lancaster was principal for Mann, in five real estate transactions, there was an accumulated loss of approximately \$40,000 to Ms. Mann. During this time, Lancaster was made aware, by Mann's nephew and a close friend of Mann's, according to the record, that Mann was increasingly confused and dependent on others. Lancaster had also accompanied Ms. Mann to her doctor appointments several times and Dr. Khan, Mann's physician, had determined that Mann's mental capacity was in decline, which started prior to March of 2000. Dr. Khan's final diagnosis of depression was made on August 4, 2000. During their relationship, which Lancaster had established over a 15 month period with Mann, Lancaster should have been aware and alerted to Mann's declining mental health and increasing dementia.

Count 2: 18 VAC 135-20-260(9) (Effective January 1, 1999)

We recommend that Count 2 be closed with a finding of no violation. Although, in our opinion, this was fraudulent and improper conduct on the part of Lancaster, the Judgment for \$189,000 is not related to the approximate loss of \$40,000 to Mann in the purchase and sale of real estate.

In the Bill of Complaint, filed by Mr Charles Mann, on behalf of his mother Alice Mann, he alleged that Jamie and Christina Lancaster's actions constituted actual fraud against Alice Mann. A jury trial was held on December 18, 2001, in Chesapeake Circuit Court. On February 28, 2002, a Final Judgment was entered in favor of Alice Mann in the amount of \$189,000. The trial jury found

that the Defendants, Jamie and Christina Lancaster, acting together, committed fraud against the Plaintiff, Alice Mann. And lastly, the conviction of fraud by the court was the result of gifts totaling \$189,000, of which a number of the gifts were received two months prior to one of Mann's real estate purchase closings.

Count 3: Section 54.1-2132(A)(2)(d) of the Code of Virginia

Christina Lancaster did not properly account for, in a timely manner, all money and property received in which the buyer has or may have an interest, in violation of Section 54.1-2132(A)(2)(d) of the Code of Virginia.

We recommend that a monetary penalty of \$500.00 be imposed for a violation of the regulation.

Lancaster did not properly account for, in a timely manner, the \$5,348 paid to Jamie Lancaster on February 24, 2000 for HVAC home repairs on a property that Mann was selling through the Lancasters. Lancaster subsequently found another contractor, H & C Contractors, to perform the repairs at a lower cost, in the amount of \$3,485. On March 15, 2000, the parties settled the transaction and H & C Contractors was paid \$3,600 directly from the borrowers' funds, as payment for the HVAC installation. Lancaster did not repay Mann the \$5,348, paid to Jamie Lancaster, for work not performed. At the advice of the Lancaster's attorney, following initiation of the investigation, the Lancasters delivered payment. The check should have been returned by March 15, 2000, when closing occurred and when H & C Contractors was paid \$3,485 for the HVAC installation. When Investigator Janet Creamer, the Board's Agent, did her investigative report in November of 2002, she discovered that the check for \$5,348, paid to Jamie Lancaster, for HVAC repairs had never been reimbursed to Mann. The check, paid by Mann, had been deposited in a personal account of the Lancaster's.

Count 4: 18 VAC 135-20-260(9) (Effective January, 1999)

Christina Lancaster's actions in failing to repay Mann constitute improper and dishonest conduct in violation of 18 VAC 135-20-260(9).

We recommend that a monetary penalty of \$500.00 be imposed for a violation of the regulation.

Lancaster did not repay Mann the \$5,348, paid to Jamie Lancaster for work not performed. At the advice of the Lancaster's attorney, following the initiation of the investigation, the Lancasters delivered payment. The check should have been returned by March 15, 2000, when closing occurred and when H & C Contractors was paid \$3,485 for the HVAC installation. When Investigator Janet Creamer, the Board's Agent, did her investigative report in November of 2002, she discovered

that this check for \$5,348, paid to Jamie Lancaster for HVAC repairs, had never been reimbursed to Mann. The check paid by Mann had been deposited in a personal account of the Lancaster's.

By: _____

**S. Ronald Owens
Presiding IFF Board Member
Real Estate Board**

Date: _____

By: _____

**Marjorie Clark
Assisting IFF Board Member
Real Estate Board**

Date: _____

FINAL ORDER RECOMMENDATION

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF LICENSE NUMBER 0225 050492 UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.